

REFERENCE TITLE: state retirement systems; domestic partners

State of Arizona
Senate
Forty-eighth Legislature
Second Regular Session
2008

SB 1368

Introduced by
Senators Aboud, Aguirre, Arzberger, Chevront, Miranda: Hale, Rios,
Soltero; Representative Sinema

AN ACT

AMENDING SECTIONS 38-711, 38-764, 38-801 AND 38-842, ARIZONA REVISED STATUTES; AMENDING SECTION 38-881, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2007, CHAPTER 87, SECTION 5; AMENDING SECTION 38-881, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2007, CHAPTER 87, SECTION 6; RELATING TO STATE RETIREMENT SYSTEMS AND PLANS; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 38-711, Arizona Revised Statutes, is amended to
3 read:

4 38-711. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Active member" means a member as defined in paragraph ~~23~~ 24,
7 subdivision (b) of this section who satisfies the eligibility criteria
8 prescribed in section 38-727 and who is currently making member contributions
9 as prescribed in section 38-736.

10 2. "Actuarial equivalent" means equality in value of the aggregate
11 amounts expected to be received under two different forms of payment, based
12 on mortality and interest rate assumptions approved from time to time by the
13 board.

14 3. "ASRS" means the Arizona state retirement system established by
15 this article.

16 4. "Assets" means the resources of ASRS, including all cash,
17 investments or securities.

18 5. "Average monthly compensation" means:

19 (a) For a member whose membership in ASRS commenced before January 1,
20 1984 and who left the member's contributions on deposit or reinstated
21 forfeited credited service pursuant to section 38-742 for a period of
22 employment that commenced before January 1, 1984, the monthly average of
23 compensation on which contributions were remitted during a period of sixty
24 consecutive months during which the member receives the highest compensation
25 within the last one hundred twenty months of credited service. Any month for
26 which no contributions are reported to ASRS or that falls within a period of
27 nonpaid or partially paid leave of absence or sabbatical leave shall be
28 excluded from the computation. The sixty consecutive months may entirely
29 precede, may be both before and after or may be completely after any excluded
30 months. If the member was employed for less than sixty consecutive months,
31 the average monthly compensation is based on the total consecutive months
32 worked. Payments for accumulated vacation or annual leave, sick leave,
33 compensatory time or other forms of termination pay which, ~~prior to the~~
34 ~~effective date of the amendment to this section~~ BEFORE AUGUST 12, 2005,
35 constitute compensation for members whose membership in ASRS commenced before
36 January 1, 1984, do not cease to be included as compensation if paid in the
37 form of nonelective employer contributions under a 26 United States Code
38 section 403(b) plan ~~so long as~~ AND IF all payments of employer and employee
39 contributions are made at the time of termination. Contributions shall be
40 made to ASRS on these amounts pursuant to sections 38-735, 38-736 and 38-737.

41 (b) Effective July 1, 1985, the monthly average of compensation on
42 which contributions were remitted during a period of thirty-six consecutive
43 months during which a member receives the highest compensation within the
44 last one hundred twenty months of credited service. Any month for which no
45 contributions are reported to ASRS or that falls within a period of nonpaid

1 or partially paid leave of absence or sabbatical leave shall be excluded from
2 the computation. The thirty-six consecutive months may entirely precede, may
3 be both before and after or may be completely after any excluded months. If
4 the member was employed for less than thirty-six consecutive months, the
5 average monthly compensation shall be based on the total consecutive months
6 worked. This subdivision applies only to members whose membership in ASRS
7 was effective after December 31, 1983 or who agree in writing as a binding
8 condition of eligibility for being granted the benefit advantages available
9 under this subdivision to have their benefit computed on the basis of the
10 definition of compensation.

11 6. "Board" means the ASRS board established in section 38-713.

12 7. "Compensation" means the gross amount paid to a member by an
13 employer as salary or wages, including amounts that are subject to deferred
14 compensation or tax shelter agreements, for services rendered to or for an
15 employer, or that would have been paid to the member except for the member's
16 election or a legal requirement that all or part of the gross amount be used
17 for other purposes, but does not include amounts paid in excess of
18 compensation limits established in section 38-746. Compensation includes
19 amounts paid as salary or wages to a member by a second employer.
20 Compensation, as provided in paragraph 5, subdivision (b) of this section,
21 does not include:

22 (a) Lump sum payments, on termination of employment, for accumulated
23 vacation or annual leave, sick leave, compensatory time or any other form of
24 termination pay whether the payments are made in one payment or by
25 installments over a period of time.

26 (b) Damages, costs, attorney fees, interest or other penalties paid
27 pursuant to a court order or a compromise settlement or agreement to satisfy
28 a grievance or claim even though the amount of the payment is based in whole
29 or in part on previous salary or wage levels, except that, if the court order
30 or compromise settlement or agreement directs salary or wages to be paid for
31 a specific period of time, the payment is compensation for that specific
32 period of time. If the amount directed to be paid is less than the actual
33 salary or wages that would have been paid for the period if service had been
34 performed, the contributions for the period shall be based on the amount of
35 compensation that would have been paid if the service had been performed.

36 (c) Payment, at the member's option, in lieu of fringe benefits that
37 are normally paid for or provided by the employer.

38 (d) Merit awards pursuant to section 38-613 and performance bonuses
39 paid to assistant attorneys general pursuant to section 41-192.

40 8. "Contingent annuitant" means the person named by a member to
41 receive retirement income payable following a member's death after retirement
42 as provided in section 38-760.

43 9. "Credited service" means, subject to section 38-739, the number of
44 years standing to the member's credit on the books of ASRS during which the
45 member made the required contributions.

- 1 10. "Current annual compensation" means the greater of:
2 (a) Annualized compensation of the full pay period immediately before
3 the date of a request to ASRS to purchase credited service pursuant to
4 section 38-743 or 38-745.
5 (b) Annualized compensation of the partial year if the member has less
6 than twelve months total credited service on the date of a request to
7 purchase credited service pursuant to section 38-743 or 38-745.
8 (c) The sum of the twelve months of compensation immediately before
9 the date of a request to ASRS to purchase credited service pursuant to
10 section 38-743 or 38-745.
11 (d) The sum of the thirty-six months of compensation immediately
12 before the date of a request to ASRS to purchase credited service pursuant to
13 section 38-743 or 38-745 divided by three.
14 (e) If the member has retired one or more times from ASRS, the average
15 monthly compensation that was used for calculating the member's last pension
16 benefit times twelve.
- 17 11. "DOMESTIC PARTNER" MEANS A PERSON WHO IS A PARTNER WITH A MEMBER IF
18 THE MEMBER AND PARTNER SUBMIT A NOTARIZED AND SIGNED AFFIDAVIT TO THE BOARD
19 AFFIRMING THAT THEY ARE:
20 (a) AT LEAST EIGHTEEN YEARS OF AGE.
21 (b) NOT RELATED BY BLOOD IN A WAY THAT WOULD DISQUALIFY THEM FROM
22 MARRIAGE PURSUANT TO TITLE 25.
23 (c) NOT MARRIED PURSUANT TO TITLE 25.
24 (d) COMPETENT TO ENTER INTO A CONTRACT.
25 (e) IN A COMMITTED RELATIONSHIP INTENDED TO LAST FOREVER.
- 26 ~~11.~~ 12. "Early retirement" means retirement before a member's normal
27 retirement date after five years of total credited service and attainment of
28 age fifty.
- 29 ~~12.~~ 13. "Effective date" means July 1, 1970, except with respect to
30 employers and members whose contributions to ASRS commence thereafter, the
31 effective date of their membership in ASRS is as specified in the applicable
32 joinder agreement.
- 33 ~~13.~~ 14. "Employer" means:
34 (a) This state.
35 (b) Participating political subdivisions.
36 (c) Participating political subdivision entities.
- 37 ~~14.~~ 15. "Employer contributions" means all amounts paid into ASRS by
38 an employer on behalf of a member.
- 39 ~~15.~~ 16. "Fiscal year" means the period from July 1 of any year to June
40 30 of the following year.
- 41 ~~16.~~ 17. "Inactive member" means a member who previously made
42 contributions to ASRS and who satisfies each of the following:
43 (a) Has not retired.
44 (b) Is not eligible for active membership in ASRS.

- 1 (c) Is not currently making contributions to ASRS.
2 (d) Has not withdrawn contributions from ASRS.
3 ~~17.~~ 18. "Interest" means the assumed actuarial investment earnings
4 rate approved by the board.
5 ~~18.~~ 19. "Internal revenue code" means the United States internal
6 revenue code of 1986, as amended.
7 ~~19.~~ 20. "Investment management" means the persons, companies, banks,
8 insurance company investment funds, mutual fund companies, management or any
9 combinations of those entities that are appointed by ASRS and that have
10 responsibility and authority for investment of the monies of ASRS.
11 ~~20.~~ 21. "Late retirement" means retirement after normal retirement.
12 ~~21.~~ 22. "Leave of absence" means any unpaid leave authorized by the
13 employer, including leaves authorized for sickness or disability or to pursue
14 education or training.
15 ~~22.~~ 23. "Life annuity" means equal monthly installments payable during
16 the member's lifetime after retirement.
17 ~~23.~~ 24. "Member":
18 (a) Means any employee of an employer on the effective date.
19 (b) Means all employees of an employer who are eligible for membership
20 pursuant to section 38-727 and who are engaged to work at least twenty weeks
21 in each fiscal year and at least twenty hours each week.
22 (c) Means any person receiving a benefit under ASRS.
23 (d) Means any person who is a former active member of ASRS and who has
24 not withdrawn contributions from ASRS pursuant to section 38-740.
25 (e) Does not include any employee of an employer who is otherwise
26 eligible pursuant to this article and who begins service in a limited
27 appointment for not more than eighteen months on or after July 1, 1979. If
28 the employment exceeds eighteen months, the employee shall be covered by ASRS
29 as of the beginning of the nineteenth month of employment. In order to be
30 excluded under this subdivision, classifications of employees designated by
31 employers as limited appointments must be approved by the director.
32 (f) Does not include any leased employee. For the purposes of section
33 414(n) of the internal revenue code, "leased employee" means an individual
34 who:
35 (i) Is not otherwise an employee of an employer.
36 (ii) Pursuant to a leasing agreement between the employer and another
37 person, performs services for the employer on a substantially full-time basis
38 for at least one year.
39 (iii) Performs services under the primary direction or control of the
40 employer.
41 ~~24.~~ 25. "Member contributions" means all amounts paid to ASRS by a
42 member.
43 ~~25.~~ 26. "Normal costs" means the sum of the individual normal costs
44 for all active members for each fiscal year. The normal cost for an

1 individual active member is the cost that is assigned to the fiscal year
2 using the projected unit credit method.

3 ~~26-~~ 27. "Normal retirement age" means the age at which a member
4 reaches the member's normal retirement date.

5 ~~27-~~ 28. "Normal retirement date" means the earliest of the following:

6 (a) A member's sixty-fifth birthday.

7 (b) A member's sixty-second birthday and completion of at least ten
8 years of credited service.

9 (c) The first day that the sum of a member's age and years of total
10 credited service equals eighty.

11 ~~28-~~ 29. "Political subdivision" means any political subdivision of
12 this state and includes a political subdivision entity.

13 ~~29-~~ 30. "Political subdivision entity" means an entity:

14 (a) That is located in this state.

15 (b) That is created in whole or in part by political subdivisions,
16 including instrumentalities of political subdivisions.

17 (c) Where a majority of the membership of the entity is composed of
18 political subdivisions.

19 (d) Whose primary purpose is the performance of a government related
20 service.

21 ~~30-~~ 31. "Retired member" means a member who is receiving retirement
22 benefits pursuant to this article.

23 ~~31-~~ 32. "Service year" means fiscal year, except that:

24 (a) If the normal work year required of a member is less than the full
25 fiscal year but is for a period of at least nine months, the service year is
26 the normal work year.

27 (b) For a salaried member employed on a contract basis under one
28 contract, or two or more consecutive contracts, for a total period of at
29 least nine months, the service year is the total period of the contract or
30 consecutive contracts.

31 (c) In determining average monthly compensation pursuant to paragraph
32 5 of this section, the service year is considered to be twelve months of
33 compensation.

34 33. "SPOUSE" INCLUDES A DOMESTIC PARTNER.

35 ~~32-~~ 34. "State" means this state, including any department, office,
36 board, commission, agency, institution or other instrumentality of this
37 state.

38 ~~33-~~ 35. "Vested" means that a member is eligible to receive a future
39 retirement benefit.

40 Sec. 2. Section 38-764, Arizona Revised Statutes, is amended to read:

41 ~~38-764.~~ Commencement of retirement; payment of retirement
42 benefits; lump sum payments

43 A. Retirement is deemed to commence on a date elected by the member.
44 That date shall not be earlier than the day following the date of termination
45 of employment, the date ASRS receives the member's completed retirement

1 application or the date specified by the member pursuant to subsection I of
2 this section.

3 B. Except as provided in subsection C of this section, all retirement
4 benefits:

5 1. Are normally payable in monthly installments beginning on the
6 commencement of retirement as prescribed in subsection A of this section.

7 2. Continue to and include the first day of the month in which death
8 occurs or continue until the date of their cessation in accordance with any
9 optional method of payment that may have been elected.

10 C. In the case of incapacity of a retired member or contingent
11 annuitant, or in the case of any other emergency, as determined by the board,
12 the board may make the payment to or on behalf of the retired member or
13 contingent annuitant or to another person or persons the board determines to
14 be lawfully entitled to receive payment. The payment is payment for the
15 account of the retired member or contingent annuitant and all persons
16 entitled to payment and, to the extent of the payment, is a full and complete
17 discharge of all liability of the board or ASRS, or both, under or in
18 connection with ASRS.

19 D. Except as provided in subsection E of this section, at the request
20 of a retired member, a retired member's guardian or a court appointed
21 conservator, the board may pay any increase in retirement benefits or the
22 entire retirement benefit in a lump sum payment based on the actuarial
23 present value of the benefit or the increase in the benefit if the payment of
24 the benefits would result in ineligibility, reduction or elimination of
25 social service programs provided to the member by this state, its political
26 subdivisions or the federal government.

27 E. The board may pay the entire retirement benefit in a lump sum
28 pursuant to subsection D of this section only if continued membership in ASRS
29 will result in additional requests for lump sum payments based on cost of
30 living adjustments or the establishment of minimum benefit awards.

31 F. If any benefit that is payable as a series of periodic payments
32 amounts to less than twenty dollars per month, the board, in its sole
33 discretion and based on uniform rules it establishes, may order the amount to
34 be paid quarterly, semiannually, annually or in a lump sum. A member who
35 receives a lump sum payment pursuant to this subsection remains a member of
36 ASRS.

37 G. All distributions of retirement benefits to a member shall be
38 distributed within the required distribution provisions of section 401(a)(9)
39 of the internal revenue code and the regulations that are issued under that
40 section by the United States secretary of the treasury as prescribed in
41 section 38-775.

42 H. A member may elect to cancel the effective date of retirement
43 within thirty days of retirement or before the member's receipt of retirement
44 benefits, whichever is later.

1 I. A member who attains a normal retirement date may retire at any
2 time without terminating employment if the member is employed for less than
3 the hours required for active membership pursuant to section 38-711,
4 paragraph ~~23~~ 24, subdivision (b).

5 Sec. 3. Section 38-801, Arizona Revised Statutes, is amended to read:
6 38-801. Definitions

7 In this article, unless the context otherwise requires:

8 1. "Accumulated contributions" means the sum of all member
9 contributions deducted from the member's salary pursuant to section 38-810,
10 subsection A plus the amount transferred to the fund on behalf of the member
11 plus the amount deposited in the fund pursuant to section 38-816.

12 2. "Alternate payee" means the spouse or former spouse of a
13 participant as designated in a domestic relations order.

14 3. "Alternate payee's portion" means benefits that are payable to an
15 alternate payee pursuant to a plan approved domestic relations order.

16 4. "Average yearly salary" means the result obtained by dividing the
17 total salary paid to an employee during a considered period by the number of
18 years, including fractional years, in which the salary was received. The
19 considered period shall be the three consecutive years within the last ten
20 completed years of credited service which yield the highest average.

21 5. "Credited service" means the number of whole and fractional years
22 of a member's service as an elected official after the elected official's
23 effective date of participation for which member and employer contributions
24 are on deposit with the fund, plus credited service as an elected official
25 transferred to the plan from another retirement system or plan for public
26 employees of this state, plus service as an elected official before the
27 elected official's effective date of participation which is being funded
28 pursuant to a joinder agreement in accordance with section 38-810, subsection
29 C and section 38-815 or which was redeemed pursuant to section 38-816.

30 6. "Cure period" means the ninety-day period in which a participant or
31 alternate payee may submit an amended domestic relations order and request a
32 determination, calculated from the time the plan issues a determination
33 finding that a previously submitted domestic relations order did not qualify
34 as a plan approved domestic relations order.

35 7. "Determination" means a written document that indicates to a
36 participant and alternate payee whether a domestic relations order qualifies
37 as a plan approved domestic relations order.

38 8. "Determination period" means the ninety-day period in which the
39 plan must review a domestic relations order that is submitted by a
40 participant or alternate payee to determine whether the domestic relations
41 order qualifies as a plan approved domestic relations order, calculated from
42 the time the plan mails a notice of receipt to the participant and alternate
43 payee.

1 9. "DOMESTIC PARTNER" MEANS A PERSON WHO IS A PARTNER WITH A MEMBER IF
2 MEMBER AND PARTNER SUBMIT A NOTARIZED AND SIGNED AFFIDAVIT TO THE FUND
3 MANAGER AFFIRMING THAT THEY ARE:

4 (a) AT LEAST EIGHTEEN YEARS OF AGE.

5 (b) NOT RELATED BY BLOOD IN A WAY THAT WOULD DISQUALIFY THEM FROM
6 MARRIAGE PURSUANT TO TITLE 25.

7 (c) NOT MARRIED PURSUANT TO TITLE 25.

8 (d) COMPETENT TO ENTER INTO A CONTRACT.

9 (e) IN A COMMITTED RELATIONSHIP INTENDED TO LAST FOREVER.

10 ~~9-~~ 10. "Domestic relations order" means an order of a court of this
11 state that is made pursuant to the domestic relations laws of this state and
12 that creates or recognizes the existence of an alternate payee's right to, or
13 assigns to an alternate payee the right to, receive a portion of the benefits
14 payable to a participant.

15 ~~10-~~ 11. "Effective date of participation" means August 7, 1985, except
16 with respect to employers and their elected officials whose contributions to
17 the plan commence after that date, in which case the effective date of their
18 participation in the plan is specified in the applicable joinder agreement.

19 ~~11-~~ 12. "Elected official" means:

20 (a) Every elected official of this state.

21 (b) Every elected official of each county of this state.

22 (c) Every justice of the supreme court, every judge of the court of
23 appeals, every judge of the superior court and every full-time superior court
24 commissioner, except full-time superior court commissioners who failed to
25 make a timely election of membership under the judges' retirement plan,
26 repealed on August 7, 1985.

27 (d) The administrator of the fund manager if the administrator is a
28 natural person.

29 (e) Each elected official of an incorporated city or town whose
30 employer has executed a proper joinder agreement for coverage of its elected
31 officials.

32 ~~12-~~ 13. "Fund" means the elected officials' retirement plan fund.

33 ~~13-~~ 14. "Fund manager" means the fund manager of the system.

34 ~~14-~~ 15. "Notice of receipt" means a written document that is issued by
35 the plan to a participant and alternate payee and that states that the plan
36 has received a domestic relations order and a request for a determination
37 that the domestic relations order is a plan approved domestic relations
38 order.

39 ~~15-~~ 16. "Participant" means a member who is subject to a domestic
40 relations order.

41 ~~16-~~ 17. "Participant's portion" means benefits that are payable to a
42 participant pursuant to a plan approved domestic relations order.

43 ~~17-~~ 18. "Pension" means a series of monthly payments to a person who
44 is entitled to receive benefits under the plan.

1 ~~18.~~ 19. "Personal representative" means the personal representative of
2 a deceased alternate payee.
3 ~~19.~~ 20. "Plan" means the elected officials' retirement plan.
4 ~~20.~~ 21. "Plan approved domestic relations order" means a domestic
5 relations order that the plan approves as meeting all the requirements for a
6 plan approved domestic relations order as otherwise prescribed in this
7 article.
8 ~~21.~~ 22. "Retired member" means a person who is being paid a pension
9 based on the person's credited service as a member of the plan.
10 ~~22.~~ 23. "Segregated funds" means the amount of benefits that would
11 currently be payable to an alternate payee pursuant to a domestic relations
12 order under review by the plan, or a domestic relations order submitted to
13 the plan that failed to qualify as a plan approved ~~qualified~~ domestic
14 relations order, if the domestic relations order were determined to be a plan
15 approved ~~qualified~~ domestic relations order.
16 24. "SPOUSE" INCLUDES A DOMESTIC PARTNER.
17 ~~23.~~ 25. "System" means the public safety personnel retirement system.
18 Sec. 4. Section 38-842, Arizona Revised Statutes, is amended to read:
19 38-842. Definitions
20 In this article, unless the context otherwise requires:
21 1. "Accidental disability" means a physical or mental condition ~~which~~
22 ~~THAT~~ the local board finds totally and permanently prevents an employee from
23 performing a reasonable range of duties within the employee's job
24 classification and ~~THAT~~ was incurred in the performance of the employee's
25 duty.
26 2. "Accumulated contributions" means, for each member, the sum of the
27 amount of the member's aggregate contributions made to the fund and the
28 amount, if any, attributable to the employee's contributions prior to the
29 member's effective date under another public retirement system, other than
30 the federal social security act, and transferred to the fund minus the
31 benefits paid to or on behalf of the member.
32 3. "Actuarial equivalent" means equality in present value of the
33 aggregate amounts expected to be received under two different forms of
34 payment, based on mortality and interest assumptions adopted by the fund
35 manager. The fund manager may from time to time change the mortality and
36 interest assumptions.
37 4. "Alternate payee" means the spouse or former spouse of a
38 participant as designated in a domestic relations order.
39 5. "Alternate payee's portion" means benefits that are payable to an
40 alternate payee pursuant to a plan approved domestic relations order.
41 6. "Average monthly benefit compensation" means the result obtained by
42 dividing the total compensation paid to an employee during a considered
43 period by the number of months, including fractional months, in which such
44 compensation was received. The considered period shall be the three
45 consecutive years within the last twenty completed years of credited service

1 which yield the highest average. In the computation under this paragraph, a
2 period of nonpaid or partially paid industrial leave shall be considered
3 based on the compensation the employee would have received in the employee's
4 job classification if the employee was not on industrial leave.

5 7. "Catastrophic disability" means a physical and not a psychological
6 condition that the local board determines prevents the employee from totally
7 and permanently engaging in any gainful employment and that results from a
8 physical injury incurred in the performance of the employee's duty.

9 8. "Certified peace officer" means a peace officer certified by the
10 Arizona peace officers standards and training board.

11 9. "Claimant" means any member or beneficiary who files an application
12 for benefits pursuant to this article.

13 10. "Compensation" means, for the purpose of computing retirement
14 benefits, base salary, overtime pay, shift differential pay and holiday pay
15 paid to an employee by the employer on a regular monthly, semimonthly or
16 biweekly payroll basis and longevity pay paid to an employee at least every
17 six months for which contributions are made to the system pursuant to section
18 38-843, subsection D. Compensation does not include, for the purpose of
19 computing retirement benefits, payment for unused sick leave, payment in lieu
20 of vacation, payment for compensatory time or payment for any fringe
21 benefits. For the purposes of this paragraph, "base salary" means the amount
22 of compensation each employee is regularly paid for personal services
23 rendered to an employer before the addition of any extra monies, including
24 overtime pay, shift differential pay, holiday pay, longevity pay, fringe
25 benefit pay and similar extra payments.

26 11. "Credited service" means the member's total period of service prior
27 to the member's effective date of participation, plus those compensated
28 periods of the member's service thereafter for which the member made
29 contributions to the fund.

30 12. "Cure period" means the ninety-day period in which a participant or
31 alternate payee may submit an amended domestic relations order and request a
32 determination, calculated from the time the system issues a determination
33 finding that a previously submitted domestic relations order did not qualify
34 as a plan approved domestic relations order.

35 13. "Depository" means a bank in which all monies of the system are
36 deposited and held and from which all expenditures for benefits, expenses and
37 investments are disbursed.

38 14. "Determination" means a written document that indicates to a
39 participant and alternate payee whether a domestic relations order qualifies
40 as a plan approved domestic relations order.

41 15. "Determination period" means the ninety-day period in which the
42 system must review a domestic relations order that is submitted by a
43 participant or alternate payee to determine whether the domestic relations
44 order qualifies as a plan approved domestic relations order, calculated from

1 the time the system mails a notice of receipt to the participant and
2 alternate payee.

3 16. "DOMESTIC PARTNER" MEANS A PERSON WHO IS A PARTNER WITH A MEMBER IF
4 THE MEMBER AND PARTNER SUBMIT A NOTARIZED AND SIGNED AFFIDAVIT TO THE FUND
5 MANAGER AFFIRMING THAT THEY ARE:

6 (a) AT LEAST EIGHTEEN YEARS OF AGE.

7 (b) NOT RELATED BY BLOOD IN A WAY THAT WOULD DISQUALIFY THEM FROM
8 MARRIAGE PURSUANT TO TITLE 25.

9 (c) NOT MARRIED PURSUANT TO TITLE 25.

10 (d) COMPETENT TO ENTER INTO A CONTRACT.

11 (e) IN A COMMITTED RELATIONSHIP INTENDED TO LAST FOREVER.

12 ~~16.~~ 17. "Domestic relations order" means an order of a court of this
13 state that is made pursuant to the domestic relations laws of this state and
14 that creates or recognizes the existence of an alternate payee's right to, or
15 assigns to an alternate payee the right to, receive a portion of the benefits
16 payable to a participant.

17 ~~17.~~ 18. "Effective date of participation" means July 1, 1968, except
18 with respect to employers and their covered employees whose contributions to
19 the fund commence thereafter, the effective date of their participation in
20 the system is as specified in the applicable joinder agreement.

21 ~~18.~~ 19. "Effective date of vesting" means the date a member's rights
22 to benefits vest pursuant to section 38-844.01.

23 ~~19.~~ 20. "Eligible child" means the unmarried child of a deceased
24 member who is under the age of eighteen or a full-time student who is under
25 the age of twenty-three or under a disability which began before the child
26 attained the age of twenty-three and who remains a dependent of the surviving
27 spouse or guardian.

28 ~~20.~~ 21. "Eligible groups" means only the following who are regularly
29 assigned to hazardous duty:

30 (a) Municipal police officers who are certified peace officers.

31 (b) Municipal fire fighters.

32 (c) Paid full-time fire fighters employed directly by a fire district
33 organized pursuant to section 48-803 or 48-804 with three or more full-time
34 fire fighters, but not including fire fighters employed by a fire district
35 pursuant to a contract with a corporation.

36 (d) State highway patrol officers who are certified peace officers.

37 (e) State fire fighters.

38 (f) County sheriffs and deputies who are certified peace officers.

39 (g) Fish and game wardens who are certified peace officers.

40 (h) Police officers who are certified peace officers and fire fighters
41 of a nonprofit corporation operating a public airport pursuant to sections
42 28-8423 and 28-8424. A police officer shall be designated pursuant to
43 section 28-8426 to aid and supplement state and local law enforcement
44 agencies, and a fire fighter's sole duty shall be to perform fire fighting
45 services, including services required by federal regulations.

- 1 (i) Police officers who are certified peace officers and who are
2 appointed by the Arizona board of regents.
- 3 (j) Police officers who are certified peace officers and who are
4 appointed by a community college district governing board.
- 5 (k) State attorney general investigators who are certified peace
6 officers.
- 7 (l) County attorney investigators who are certified peace officers.
- 8 (m) Police officers who are certified peace officers and who are
9 employed by an Indian reservation police agency.
- 10 (n) Fire fighters who are employed by an Indian reservation fire
11 fighting agency.
- 12 (o) Police officers who are certified peace officers and who are
13 appointed by the department of administration.
- 14 (p) Department of liquor licenses and control investigators who are
15 certified peace officers.
- 16 (q) Arizona department of agriculture officers who are certified peace
17 officers.
- 18 (r) Arizona state parks board rangers and managers who are certified
19 peace officers.
- 20 (s) County park rangers who are certified peace officers.
- 21 ~~21.~~ 22. "Employee" means any person who is employed by a participating
22 employer and who is a member of an eligible group but does not include any
23 persons compensated on a contractual or fee basis. If an eligible group
24 requires certified peace officer status and at the option of the local board,
25 employee may include a person who is training to become a certified peace
26 officer.
- 27 ~~22.~~ 23. "Employers" means:
- 28 (a) Cities contributing to the fire fighters' relief and pension fund
29 as provided in sections 9-951 through 9-971 or statutes amended thereby and
30 antecedent thereto, as of June 30, 1968 on behalf of their full-time paid
31 fire fighters.
- 32 (b) Cities contributing under the state police pension laws as
33 provided in sections 9-911 through 9-934 or statutes amended thereby and
34 antecedent thereto, as of June 30, 1968 on behalf of their municipal
35 policemen.
- 36 (c) The state highway patrol covered under the state highway patrol
37 retirement system.
- 38 (d) The state, or any political subdivision thereof, including but not
39 limited to towns, cities, fire districts, counties and nonprofit corporations
40 operating public airports pursuant to sections 28-8423 and 28-8424, which has
41 elected to participate in the system on behalf of an eligible group of public
42 safety personnel pursuant to a joinder agreement entered into after July 1,
43 1968.

1 (e) Indian tribes which have elected to participate in the system on
2 behalf of an eligible group of public safety personnel pursuant to a joinder
3 agreement entered into after July 1, 1968.

4 ~~23.~~ 24. "Fund" means the public safety personnel retirement fund,
5 which is the fund established to receive and invest contributions accumulated
6 under the system and from which benefits are paid.

7 ~~24.~~ 25. "Fund manager" means the fund manager of the system, who are
8 the persons appointed to invest and operate the fund.

9 ~~25.~~ 26. "Local board" means the retirement board of the employer, who
10 are the persons appointed to administer the system as it applies to their
11 members in the system.

12 ~~26.~~ 27. "Member" means any employee who meets all of the following
13 qualifications:

14 (a) Who is either a full-time paid municipal police officer, a
15 full-time paid fire fighter, a law enforcement officer who is employed by the
16 state including the director thereof, a state fire fighter who is primarily
17 assigned to fire fighting duties, a fire fighter or police officer of a
18 nonprofit corporation operating a public airport pursuant to sections 28-8423
19 and 28-8424, all ranks designated by the Arizona law enforcement merit system
20 council, a state attorney general investigator who is a certified peace
21 officer, a county attorney investigator who is a certified peace officer, a
22 police officer who is appointed by the department of administration and who
23 is a certified peace officer, a department of liquor licenses and control
24 investigator who is a certified peace officer, an Arizona department of
25 agriculture officer who is a certified peace officer, an Arizona state parks
26 board ranger or manager who is a certified peace officer, a county park
27 ranger who is a certified peace officer, a person who is a certified peace
28 officer and who is employed by an Indian reservation police agency, a fire
29 fighter who is employed by an Indian reservation fire fighting agency or an
30 employee included in a group designated as eligible employees under a joinder
31 agreement entered into by their employer after July 1, 1968 and who is or was
32 regularly assigned to hazardous duty.

33 (b) Who, on or after the employee's effective date of participation,
34 is receiving compensation for personal services rendered to an employer or
35 would be receiving compensation except for an authorized leave of absence.

36 (c) Whose employment with an employer commenced prior to attainment of
37 age fifty.

38 (d) Whose customary employment is at least forty hours per week and
39 for more than six months in a calendar year.

40 (e) Who has not attained age sixty-five prior to the employee's
41 effective date of participation or who was over age sixty-five with
42 twenty-five years or more of service prior to the employee's effective date
43 of participation.

44 ~~27.~~ 28. "Normal retirement date" means the first day of the calendar
45 month immediately following an employee's completion of twenty years of

1 service or the employee's sixty-second birthday and the employee's completion
2 of fifteen years of service.

3 ~~28-~~ 29. "Notice of receipt" means a written document that is issued by
4 the system to a participant and alternate payee and that states that the
5 system has received a domestic relations order and a request for a
6 determination that the domestic relations order is a plan approved domestic
7 relations order.

8 ~~29-~~ 30. "Ordinary disability" means a physical condition which the
9 local board determines will prevent an employee totally and permanently from
10 performing a reasonable range of duties within the employee's department or a
11 mental condition which the local board determines will prevent an employee
12 totally and permanently from engaging in any substantial gainful activity.

13 ~~30-~~ 31. "Participant" means a member who is subject to a domestic
14 relations order.

15 ~~31-~~ 32. "Participant's portion" means benefits that are payable to a
16 participant pursuant to a plan approved domestic relations order.

17 ~~32-~~ 33. "Pension" means a series of monthly amounts which are payable
18 to a person who is entitled to receive benefits under the plan.

19 ~~33-~~ 34. "Personal representative" means the personal representative of
20 a deceased alternate payee.

21 ~~34-~~ 35. "Plan approved domestic relations order" means a domestic
22 relations order that the system approves as meeting all the requirements for
23 a plan approved domestic relations order as otherwise prescribed in this
24 article.

25 ~~35-~~ 36. "Regularly assigned to hazardous duty" means regularly
26 assigned to duties of the type normally expected of municipal police
27 officers, municipal or state fire fighters, eligible fire district fire
28 fighters, state highway patrol officers, county sheriffs and deputies, fish
29 and game wardens, fire fighters and police officers of a nonprofit
30 corporation operating a public airport pursuant to sections 28-8423 and
31 28-8424, police officers who are appointed by the Arizona board of regents or
32 a community college district governing board, state attorney general
33 investigators who are certified peace officers, county attorney investigators
34 who are certified peace officers, police officers who are appointed by the
35 department of administration and who are certified peace officers, department
36 of liquor licenses and control investigators who are certified peace
37 officers, Arizona department of agriculture officers who are certified peace
38 officers, Arizona state parks board rangers and managers who are certified
39 peace officers, county park rangers who are certified peace officers, police
40 officers who are certified peace officers and are employed by an Indian
41 reservation police agency or fire fighters who are employed by an Indian
42 reservation fire fighting agency. Those individuals who are assigned solely
43 to support duties, such as secretaries, stenographers, clerical personnel,
44 clerks, cooks, maintenance personnel, mechanics and dispatchers are not
45 assigned to hazardous duty regardless of their position classification title.

1 Since the normal duties of municipal police officers, municipal or state fire
2 fighters, eligible fire district fire fighters, state highway patrol
3 officers, county sheriffs and deputies, fish and game wardens, fire fighters
4 and police officers of a nonprofit corporation operating a public airport
5 pursuant to sections 28-8423 and 28-8424, police officers who are appointed
6 by the Arizona board of regents or a community college district governing
7 board, state attorney general investigators who are certified peace officers,
8 county attorney investigators who are certified peace officers, police
9 officers who are appointed by the department of administration and who are
10 certified peace officers, department of liquor licenses and control
11 investigators who are certified peace officers, Arizona department of
12 agriculture officers who are certified peace officers, Arizona state parks
13 board rangers and managers who are certified peace officers, county park
14 rangers who are certified peace officers, police officers who are certified
15 peace officers and are employed by an Indian reservation police agency and
16 fire fighters who are employed by an Indian reservation fire fighting agency
17 are constantly changing, questions as to whether a person is or was
18 previously regularly assigned to hazardous duty shall be resolved by the
19 local board on a case-by-case basis. Resolutions by local boards are subject
20 to rehearing and appeal.

21 ~~36-~~ 37. "Retirement" means termination of employment after a member
22 has fulfilled all requirements for a pension. Retirement shall be considered
23 as commencing on the first day of the month immediately following a member's
24 last day of employment or authorized leave of absence, if later.

25 ~~37-~~ 38. "Segregated funds" means the amount of benefits that would
26 currently be payable to an alternate payee pursuant to a domestic relations
27 order under review by the system, or a domestic relations order submitted to
28 the system that failed to qualify as a plan approved domestic relations
29 order, if the domestic relations order were determined to be a plan approved
30 domestic relations order.

31 ~~38-~~ 39. "Service" means the last period of continuous employment of an
32 employee by the employers prior to the employee's retirement or the
33 employee's sixty-fifth birthday, whichever first occurs, except that if such
34 period includes employment during which the employee would not have qualified
35 as a member had the system then been effective, such as employment as a
36 volunteer fire fighter, then only twenty-five per cent of such noncovered
37 employment shall be considered as service. Any absence which is authorized
38 by an employer shall not be considered as interrupting continuity of
39 employment if the employee returns within the period of authorized absence.
40 Transfers between employers also shall not be considered as interrupting
41 continuity of employment. Any period during which a member is receiving sick
42 leave payments or a temporary disability pension shall be considered as
43 service. Any period during which a person was employed as a full-time paid
44 fire fighter by a fire district pursuant to a contract with a corporation
45 within that fire district shall be considered as service if it is part of the

1 person's last period of continuous employment with that corporation in that
2 fire district and the fire district has elected to treat the period as
3 service in its applicable joinder agreement. Any reference in this system to
4 the number of years of service of an employee shall be deemed to include
5 fractional portions of a year.

6 ~~40.~~ "SPOUSE" INCLUDES A DOMESTIC PARTNER.

7 ~~39.~~ 41. "State" means the state of Arizona, including any department,
8 office, board, commission, agency or other instrumentality of the state.

9 ~~40.~~ 42. "System" means the public safety personnel retirement system
10 established by this article.

11 ~~41.~~ 43. "Temporary disability" means a physical or mental condition
12 which the local board finds totally and temporarily prevents an employee from
13 performing a reasonable range of duties within the employee's department and
14 which was incurred in the performance of the employee's duty.

15 Sec. 5. Section 38-881, Arizona Revised Statutes, as amended by Laws
16 2007, chapter 87, section 5, is amended to read:

17 ~~38-881.~~ Definitions

18 In this article, unless the context otherwise requires:

19 1. "Accidental disability" means a physical or mental condition that
20 the local board finds totally and permanently prevents an employee from
21 performing a reasonable range of duties within the employee's department, was
22 incurred in the performance of the employee's duties and was the result of
23 any of the following:

24 (a) Physical contact with inmates, prisoners, parolees or persons on
25 probation.

26 (b) Responding to a confrontational situation with inmates, prisoners,
27 parolees or persons on probation.

28 (c) A job related motor vehicle accident while on official business
29 for the employee's employer. A job related motor vehicle accident does not
30 include an accident that occurs on the way to or from work. Persons found
31 guilty of violating a personnel rule, a rule established by the employee's
32 employer or a state or federal law in connection with a job related motor
33 vehicle accident do not meet the conditions for accidental disability.

34 2. "Accumulated member contributions" means the sum of all member
35 contributions deducted from a member's salary and paid to the fund, plus
36 member contributions transferred to the fund by another retirement plan
37 covering public employees of this state, plus previously withdrawn
38 accumulated member contributions which are repaid to the fund in accordance
39 with this article, minus any benefits paid to or on behalf of a member.

40 3. "Alternate payee" means the spouse or former spouse of a
41 participant as designated in a domestic relations order.

42 4. "Alternate payee's portion" means benefits that are payable to an
43 alternate payee pursuant to a plan approved domestic relations order.

44 5. "Average monthly salary" means one-thirty-sixth of the aggregate
45 amount of salary that is paid a member by a participating employer during a

1 period of thirty-six consecutive months of service in which the member
2 received the highest salary within the last one hundred twenty months of
3 service. Average monthly salary means the aggregate amount of salary that is
4 paid a member divided by the member's months of service if the member has
5 less than thirty-six months of service. In the computation under this
6 paragraph, a period of nonpaid or partially paid industrial leave shall be
7 considered based on the salary the employee would have received in the
8 employee's job classification if the employee was not on industrial leave.

9 6. "Beneficiary" means an individual who is being paid or who has
10 entitlement to the future payment of a pension on account of a reason other
11 than the individual's membership in the retirement plan.

12 7. "Claimant" means a member, beneficiary or estate that files an
13 application for benefits with the retirement plan.

14 8. "Credited service" means credited service transferred to the
15 retirement plan from another retirement system or plan for public employees
16 of this state, plus those compensated periods of service as a member of the
17 retirement plan for which member contributions are on deposit in the fund.

18 9. "Cure period" means the ninety-day period in which a participant or
19 alternate payee may submit an amended domestic relations order and request a
20 determination, calculated from the time the plan issues a determination
21 finding that a previously submitted domestic relations order did not qualify
22 as a plan approved domestic relations order.

23 10. "Designated position" means:

24 (a) For a county:

25 (i) A county detention officer.

26 (ii) A nonuniformed employee of a sheriff's department whose primary
27 duties require direct contact with inmates.

28 (b) For the state department of corrections and the department of
29 juvenile corrections, only the following specifically designated positions:

30 (i) Food service.

31 (ii) Nursing personnel.

32 (iii) Corrections physician assistant.

33 (iv) Therapist.

34 (v) Corrections dental assistant.

35 (vi) Hygienist.

36 (vii) Corrections medical assistant.

37 (viii) Correctional service officer, including assistant deputy
38 warden, deputy warden, warden and superintendent.

39 (ix) State correctional program officer.

40 (x) Parole or community supervision officers.

41 (xi) Investigators.

42 (xii) Teachers.

43 (xiii) Institutional maintenance workers.

44 (xiv) Youth corrections officer.

45 (xv) Youth program officer.

1 (xvi) Behavioral health treatment unit managers.

2 (xvii) The director and assistant directors of the department of
3 juvenile corrections and the superintendent of the state educational system
4 for committed youth.

5 (xviii) The director, deputy directors and assistant directors of the
6 state department of corrections.

7 (xix) Other positions designated by the local board of the state
8 department of corrections or the local board of the department of juvenile
9 corrections pursuant to section 38-891, subsection E.

10 (c) For a city or town, a city or town detention officer.

11 (d) For an employer of an eligible group as defined in section 38-842,
12 full-time dispatchers.

13 (e) For the judiciary, probation, surveillance and juvenile detention
14 officers.

15 11. "Determination" means a written document that indicates to a
16 participant and alternate payee whether a domestic relations order qualifies
17 as a plan approved domestic relations order.

18 12. "Determination period" means the ninety-day period in which the
19 plan must review a domestic relations order that is submitted by a
20 participant or alternate payee to determine whether the domestic relations
21 order qualifies as a plan approved domestic relations order, calculated from
22 the time the plan mails a notice of receipt to the participant and alternate
23 payee.

24 13. "DOMESTIC PARTNER" MEANS A PERSON WHO IS A PARTNER WITH A MEMBER IF
25 THE MEMBER AND PARTNER SUBMIT A NOTARIZED AND SIGNED AFFIDAVIT TO THE FUND
26 MANAGER AFFIRMING THAT THEY ARE:

27 (a) AT LEAST EIGHTEEN YEARS OF AGE.

28 (b) NOT RELATED BY BLOOD IN A WAY THAT WOULD DISQUALIFY THEM FROM
29 MARRIAGE PURSUANT TO TITLE 25.

30 (c) NOT MARRIED PURSUANT TO TITLE 25.

31 (d) COMPETENT TO ENTER INTO A CONTRACT.

32 (e) IN A COMMITTED RELATIONSHIP INTENDED TO LAST FOREVER.

33 ~~13.~~ 14. "Domestic relations order" means an order of a court of this
34 state that is made pursuant to the domestic relations laws of this state and
35 that creates or recognizes the existence of an alternate payee's right to, or
36 assigns to an alternate payee the right to, receive a portion of the benefits
37 payable to a participant.

38 ~~14.~~ 15. "Employee" means a person determined by the local board to be
39 employed by a participating employer in a designated position.

40 ~~15.~~ 16. "Employer" means an agency or department of this state or a
41 political subdivision of this state which has one or more employees in a
42 designated position.

43 ~~16.~~ 17. "Fund" means the corrections officer retirement plan fund.

44 ~~17.~~ 18. "Fund manager" means the fund manager of the public safety
45 personnel retirement system.

1 ~~18.~~ 19. "Juvenile detention officer" means a juvenile detention
2 officer responsible for the direct custodial supervision of juveniles who are
3 detained in a county juvenile detention center.

4 ~~19.~~ 20. "Local board" means the retirement board of the employer that
5 consists of persons appointed or elected to administer the plan as it applies
6 to the employer's members in the plan.

7 ~~20.~~ 21. "Member" means any employee who meets all of the following
8 qualifications:

9 (a) Who is a full-time paid person employed by a participating
10 employer in a designated position.

11 (b) Who is receiving salary for personal services rendered to a
12 participating employer or would be receiving salary except for an authorized
13 leave of absence.

14 (c) Whose customary employment is at least forty hours each week and
15 for more than six months in a calendar year.

16 ~~21.~~ 22. "Normal retirement date" means the first day of the calendar
17 month immediately following an employee's completion of twenty years of
18 service or, in the case of a dispatcher, twenty-five years of service, the
19 employee's sixty-second birthday and completion of ten years of service or
20 the month in which the sum of the employee's age and years of credited
21 service equals eighty.

22 ~~22.~~ 23. "Notice of receipt" means a written document that is issued by
23 the plan to a participant and alternate payee and that states that the plan
24 has received a domestic relations order and a request for a determination
25 that the domestic relations order is a plan approved domestic relations
26 order.

27 ~~23.~~ 24. "Participant" means a member who is subject to a domestic
28 relations order.

29 ~~24.~~ 25. "Participant's portion" means benefits that are payable to a
30 participant pursuant to a plan approved domestic relations order.

31 ~~25.~~ 26. "Participating employer" means an employer which the fund
32 manager has determined to have one or more employees in a designated position
33 or a county, city or town which has entered into a joinder agreement pursuant
34 to section 38-902.

35 ~~26.~~ 27. "Pension" means a series of monthly payments by the retirement
36 plan.

37 ~~27.~~ 28. "Personal representative" means the personal representative of
38 a deceased alternate payee.

39 ~~28.~~ 29. "Plan approved domestic relations order" means a domestic
40 relations order that the plan approves as meeting all the requirements for a
41 plan approved domestic relations order as otherwise prescribed in this
42 article.

43 ~~29.~~ 30. "Probation or surveillance officer" means an officer appointed
44 pursuant to section 8-203, 12-251 or 12-259 but does not include other
45 personnel, office assistants or support staff.

1 ~~30.~~ 31. "Retired member" means an individual who is being paid a
2 pension on account of the individual's membership in the retirement plan.

3 ~~31.~~ 32. "Retirement" means termination of employment after a member
4 has fulfilled all requirements for a pension.

5 ~~32.~~ 33. "Retirement plan" or "plan" means the corrections officer
6 retirement plan established by this article.

7 ~~33.~~ 34. "Salary" means the base salary, shift differential pay and
8 holiday pay paid a member in a designated position for personal services
9 rendered to a participating employer on a regular monthly, semimonthly or
10 biweekly payroll basis. Salary includes amounts that are subject to deferred
11 compensation or tax shelter agreements. Salary does not include payment for
12 any remuneration or reimbursement other than as prescribed by this paragraph.
13 For the purposes of this paragraph, "base salary" means the amount of
14 compensation each member is regularly paid for personal services rendered to
15 an employer before the addition of any extra monies, including overtime pay,
16 shift differential pay, holiday pay, fringe benefit pay and similar extra
17 payments.

18 ~~34.~~ 35. "Segregated funds" means the amount of benefits that would
19 currently be payable to an alternate payee pursuant to a domestic relations
20 order under review by the plan, or a domestic relations order submitted to
21 the plan that failed to qualify as a plan approved domestic relations order,
22 if the domestic relations order were determined to be a plan approved
23 domestic relations order.

24 ~~35.~~ 36. "Service" means employment rendered to a participating
25 employer as an employee in a designated position. Any absence that is
26 authorized by an employer, including any periods during which the employee is
27 on an employer sponsored long-term disability program, is considered as
28 service if the employee returns or is deemed by the employer to have returned
29 to a designated position within the period of the authorized absence.

30 37. "SPOUSE" INCLUDES A DOMESTIC PARTNER.

31 ~~36.~~ 38. "Total and permanent disability" means a physical or mental
32 condition that is not an accidental disability, that the local board finds
33 totally and permanently prevents a member from engaging in any gainful
34 employment and that is the direct and proximate result of the member's
35 performance of the member's duty as an employee of a participating employer.

36 Sec. 6. Section 38-881, Arizona Revised Statutes, as amended by Laws
37 2007, chapter 87, section 6, is amended to read:

38 38-881. Definitions

39 In this article, unless the context otherwise requires:

40 1. "Accidental disability" means a physical or mental condition that
41 the local board finds totally and permanently prevents an employee from
42 performing a reasonable range of duties within the employee's department, was
43 incurred in the performance of the employee's duties and was the result of
44 any of the following:

1 (a) Physical contact with inmates, prisoners, parolees or persons on
2 probation.

3 (b) Responding to a confrontational situation with inmates, prisoners,
4 parolees or persons on probation.

5 (c) A job related motor vehicle accident while on official business
6 for the employee's employer. A job related motor vehicle accident does not
7 include an accident that occurs on the way to or from work. Persons found
8 guilty of violating a personnel rule, a rule established by the employee's
9 employer or a state or federal law in connection with a job related motor
10 vehicle accident do not meet the conditions for accidental disability.

11 2. "Accumulated member contributions" means the sum of all member
12 contributions deducted from a member's salary and paid to the fund, plus
13 member contributions transferred to the fund by another retirement plan
14 covering public employees of this state, plus previously withdrawn
15 accumulated member contributions which are repaid to the fund in accordance
16 with this article, minus any benefits paid to or on behalf of a member.

17 3. "Alternate payee" means the spouse or former spouse of a
18 participant as designated in a domestic relations order.

19 4. "Alternate payee's portion" means benefits that are payable to an
20 alternate payee pursuant to a plan approved domestic relations order.

21 5. "Average monthly salary" means one-thirty-sixth of the aggregate
22 amount of salary that is paid a member by a participating employer during a
23 period of thirty-six consecutive months of service in which the member
24 received the highest salary within the last one hundred twenty months of
25 service. Average monthly salary means the aggregate amount of salary that is
26 paid a member divided by the member's months of service if the member has
27 less than thirty-six months of service. In the computation under this
28 paragraph, a period of nonpaid or partially paid industrial leave shall be
29 considered based on the salary the employee would have received in the
30 employee's job classification if the employee was not on industrial leave.

31 6. "Beneficiary" means an individual who is being paid or who has
32 entitlement to the future payment of a pension on account of a reason other
33 than the individual's membership in the retirement plan.

34 7. "Claimant" means a member, beneficiary or estate that files an
35 application for benefits with the retirement plan.

36 8. "Credited service" means credited service transferred to the
37 retirement plan from another retirement system or plan for public employees
38 of this state, plus those compensated periods of service as a member of the
39 retirement plan for which member contributions are on deposit in the fund.

40 9. "Cure period" means the ninety-day period in which a participant or
41 alternate payee may submit an amended domestic relations order and request a
42 determination, calculated from the time the plan issues a determination
43 finding that a previously submitted domestic relations order did not qualify
44 as a plan approved domestic relations order.

- 1 10. "Designated position" means:
2 (a) For a county:
3 (i) A county detention officer.
4 (ii) A nonuniformed employee of a sheriff's department whose primary
5 duties require direct contact with inmates.
6 (b) For the state department of corrections and the department of
7 juvenile corrections, only the following specifically designated positions:
8 (i) Food service.
9 (ii) Nursing personnel.
10 (iii) Corrections physician assistant.
11 (iv) Therapist.
12 (v) Corrections dental assistant.
13 (vi) Hygienist.
14 (vii) Corrections medical assistant.
15 (viii) Correctional service officer, including assistant deputy
16 warden, deputy warden, warden and superintendent.
17 (ix) State correctional program officer.
18 (x) Parole or community supervision officers.
19 (xi) Investigators.
20 (xii) Teachers.
21 (xiii) Institutional maintenance workers.
22 (xiv) Youth corrections officer.
23 (xv) Youth program officer.
24 (xvi) Behavioral health treatment unit managers.
25 (xvii) The director and assistant directors of the department of
26 juvenile corrections and the superintendent of the state educational system
27 for committed youth.
28 (xviii) The director, deputy directors and assistant directors of the
29 state department of corrections.
30 (xix) Other positions designated by the local board of the state
31 department of corrections or the local board of the department of juvenile
32 corrections pursuant to section 38-891, subsection E.
33 (c) For a city or town, a city or town detention officer.
34 (d) For an employer of an eligible group as defined in section 38-842,
35 full-time dispatchers.
36 (e) For the judiciary, probation, surveillance and juvenile detention
37 officers.
38 11. "Determination" means a written document that indicates to a
39 participant and alternate payee whether a domestic relations order qualifies
40 as a plan approved domestic relations order.
41 12. "Determination period" means the ninety-day period in which the
42 plan must review a domestic relations order that is submitted by a
43 participant or alternate payee to determine whether the domestic relations
44 order qualifies as a plan approved domestic relations order, calculated from

1 the time the plan mails a notice of receipt to the participant and alternate
2 payee.

3 13. "DOMESTIC PARTNER" MEANS A PERSON WHO IS A PARTNER WITH A MEMBER IF
4 THE MEMBER AND PARTNER SUBMIT A NOTARIZED AND SIGNED AFFIDAVIT TO THE FUND
5 MANAGER AFFIRMING THAT THEY ARE:

6 (a) AT LEAST EIGHTEEN YEARS OF AGE.

7 (b) NOT RELATED BY BLOOD IN A WAY THAT WOULD DISQUALIFY THEM FROM
8 MARRIAGE PURSUANT TO TITLE 25.

9 (c) NOT MARRIED PURSUANT TO TITLE 25.

10 (d) COMPETENT TO ENTER INTO A CONTRACT.

11 (e) IN A COMMITTED RELATIONSHIP INTENDED TO LAST FOREVER.

12 ~~13.~~ 14. "Domestic relations order" means an order of a court of this
13 state that is made pursuant to the domestic relations laws of this state and
14 that creates or recognizes the existence of an alternate payee's right to, or
15 assigns to an alternate payee the right to, receive a portion of the benefits
16 payable to a participant.

17 ~~14.~~ 15. "Employee" means a person determined by the local board to be
18 employed by a participating employer in a designated position.

19 ~~15.~~ 16. "Employer" means an agency or department of this state or a
20 political subdivision of this state which has one or more employees in a
21 designated position.

22 ~~16.~~ 17. "Fund" means the corrections officer retirement plan fund.

23 ~~17.~~ 18. "Fund manager" means the fund manager of the public safety
24 personnel retirement system.

25 ~~18.~~ 19. "Juvenile detention officer" means a detention officer
26 responsible for the direct custodial supervision of juveniles who are
27 detained in a county juvenile detention center.

28 ~~19.~~ 20. "Local board" means the retirement board of the employer that
29 consists of persons appointed or elected to administer the plan as it applies
30 to the employer's members in the plan.

31 ~~20.~~ 21. "Member" means any employee who meets all of the following
32 qualifications:

33 (a) Who is a full-time paid person employed by a participating
34 employer in a designated position.

35 (b) Who is receiving salary for personal services rendered to a
36 participating employer or would be receiving salary except for an authorized
37 leave of absence.

38 (c) Whose customary employment is at least forty hours each week and
39 for more than six months in a calendar year.

40 ~~21.~~ 22. "Normal retirement date" means the first day of the calendar
41 month immediately following an employee's completion of twenty years of
42 service or, in the case of a dispatcher, twenty-five years of service, the
43 employee's sixty-second birthday and completion of ten years of service or
44 the month in which the sum of the employee's age and years of credited
45 service equals eighty.

1 ~~22.~~ 23. "Notice of receipt" means a written document that is issued by
2 the plan to a participant and alternate payee and that states that the plan
3 has received a domestic relations order and a request for a determination
4 that the domestic relations order is a plan approved domestic relations
5 order.

6 ~~23.~~ 24. "Participant" means a member who is subject to a domestic
7 relations order.

8 ~~24.~~ 25. "Participant's portion" means benefits that are payable to a
9 participant pursuant to a plan approved domestic relations order.

10 ~~25.~~ 26. "Participating employer" means an employer which the fund
11 manager has determined to have one or more employees in a designated position
12 or a county, city or town which has entered into a joinder agreement pursuant
13 to section 38-902.

14 ~~26.~~ 27. "Pension" means a series of monthly payments by the retirement
15 plan.

16 ~~27.~~ 28. "Personal representative" means the personal representative of
17 a deceased alternate payee.

18 ~~28.~~ 29. "Plan approved domestic relations order" means a domestic
19 relations order that the plan approves as meeting all the requirements for a
20 plan approved domestic relations order as otherwise prescribed in this
21 article.

22 ~~29.~~ 30. "Probation or surveillance officer" means an officer appointed
23 pursuant to section 8-203, 12-251 or 12-259 but does not include other
24 personnel, office assistants or support staff.

25 ~~30.~~ 31. "Retired member" means an individual who is being paid a
26 pension on account of the individual's membership in the retirement plan.

27 ~~31.~~ 32. "Retirement" means termination of employment after a member
28 has fulfilled all requirements for a pension.

29 ~~32.~~ 33. "Retirement plan" or "plan" means the corrections officer
30 retirement plan established by this article.

31 ~~33.~~ 34. "Salary" means the base salary, overtime pay, shift
32 differential pay and holiday pay paid a member in a designated position for
33 personal services rendered to a participating employer on a regular monthly,
34 semimonthly or biweekly payroll basis, except that for the purposes of this
35 paragraph the amount of overtime included shall not include payments to the
36 member for the sale of compensatory time. Salary includes amounts that are
37 subject to deferred compensation or tax shelter agreements. Salary does not
38 include payment for any remuneration or reimbursement other than as
39 prescribed by this paragraph. For the purposes of this paragraph, "base
40 salary" means the amount of compensation each member is regularly paid for
41 personal services rendered to an employer before the addition of any extra
42 monies, including overtime pay, shift differential pay, holiday pay, payments
43 for the sale of compensatory time, fringe benefit pay and similar extra
44 payments.

1 ~~34.~~ 35. "Segregated funds" means the amount of benefits that would
2 currently be payable to an alternate payee pursuant to a domestic relations
3 order under review by the plan, or a domestic relations order submitted to
4 the plan that failed to qualify as a plan approved domestic relations order,
5 if the domestic relations order were determined to be a plan approved
6 domestic relations order.

7 ~~35.~~ 36. "Service" means employment rendered to a participating
8 employer as an employee in a designated position. Any absence that is
9 authorized by an employer, including any periods during which the employee is
10 on an employer sponsored long-term disability program, is considered as
11 service if the employee returns or is deemed by the employer to have returned
12 to a designated position within the period of the authorized absence.

13 37. "SPOUSE" INCLUDES A DOMESTIC PARTNER.

14 ~~36.~~ 38. "Total and permanent disability" means a physical or mental
15 condition that is not an accidental disability, that the local board finds
16 totally and permanently prevents a member from engaging in any gainful
17 employment and that is the direct and proximate result of the member's
18 performance of the member's duty as an employee of a participating employer.

19 Sec. 7. Conditional enactment

20 Section 38-881, Arizona Revised Statutes, as amended by Laws 2007,
21 chapter 87, section 6 and this act, becomes effective on the date prescribed
22 in Laws 2005, chapter 324, section 2, but only on the occurrence of the
23 condition prescribed by Laws 2005, chapter 324, section 2.